UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,197	01/04/2002	Kirill O. Soshalsky	SUNMP019	2020

25920 7590 10/11/2006		EXAMINER
MARTINE PENILLA & GENCARELLA, LLP		YIGDALL, MICHAEL J

ART UNIT	PAPER NUMBER
2192	

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 July 2006</u>.

2a)☒ This action is **FINAL.** ·   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This Office action is responsive to Applicant's submission filed on July 6, 2006. Claims

1-20 are pending.

Response to Arguments

2.   Applicant's arguments have been considered but are moot in view of the new ground(s)

of rejection, as set forth below with reference to Mitomo. Applicant's amendment necessitated

the new ground(s) of rejection.

Applicant states that there is no need to modify Shrader to include the feature of

delivering a query rules file to the HTTP server, as Shrader has no use for this functionality

(remarks, page 7, last paragraph). However, Applicant's argument amounts to a general

allegation of nonobviousness and is therefore not persuasive. A teaching, suggestion or

motivation to include such a feature in Shrader, found within the references themselves or in the

knowledge generally available to one of ordinary skill in the art, is presented below.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

No. 6,473,894 to Shrader et al. (art of record, "Shrader") in view of U.S. Pub. No. 2002/0107680

to Duggan et al. (art of record, "Duggan") in view of U.S. Pub. No. 2002/0133603 to Mitomo et

al. (now made of record, "Mitomo").

With respect to claim 1 (currently amended), Shrader discloses an application launcher

testing system (see, for example, the abstract), comprising:

(a) a Hypertext Transfer Protocol (HTTP) server in communication with an application

launcher, wherein the HTTP server receives a query for a test application from the application

launcher (see, for example, column 4, lines 53-58, which shows an HTTP server and a browser,

wherein the HTTP server receives a query from the browser, and see, for example, column 5,

lines 15-21, which shows that the browser is an application launcher for querying the server for a

test applet or test application);

(b) a status server in communication with the test application, the status server receiving

a test status from the test application (see, for example, column 5, lines 43-52, which shows a

DynamicAppletTest class that is a status server for receiving status information or a test status

from the test applet or test application); and

(c) a test monitor in communication with the HTTP server and the status server, wherein

the test monitor receives a query status from the HTTP server, and wherein the test monitor

receives the test status from the status server and an application launch status from the

application launcher (see, for example, test/run program 202 in FIG. 2A and column 5, lines 43-

57, which shows that the test/run program is a test monitor for receiving the test status from the

DynamicAppletTest class or status server, and see, for example, column 6, lines 42-47, which

shows that the test/run program receives a query status from the HTTP server, such as error and

status messages from the browser for the current URL, and see, for example, step 408 in FIG. 4

and column 8, lines 36-39, which shows receiving a marker file indicating a completed launch status).

Shrader does not expressly disclose that the query status is based upon a comparison with a query rules file provided to the HTTP server from the test monitor, and does not expressly disclose that the test monitor determines if the application launcher has sent a correct query to the HTTP server.

However, in an analogous art, Duggan discloses determining whether a request sent to an HTTP server is valid, which is to say determining whether a query sent to an HTTP server is correct, so as to report an error when the request is invalid or incorrect (see, for example, paragraph 0023, lines 6-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the test/run program or test monitor of Shrader to determine if the browser or application launcher has sent a correct query to the HTTP server, as Duggan teaches, so that the error and status messages of Shrader (see, for example, column 6, lines 42-47) could report such information.

Duggan is silent as to how the correctness of the query is determined. In other words, Shrader in view of Duggan does not expressly disclose a comparison with a query rules file provided to the HTTP server from the test monitor.

However, in an analogous art, Mitomo discloses comparing a request sent to an HTTP server with a request database to determine the correctness of the request (see, for example, paragraph 0036, lines 1-5 and paragraph 0040, lines 1-11). The request database is a file that

provides custom patterns or rules on which to base the comparison (see, for example, paragraph

0037, line 1 to paragraph 0039, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to supplement the test/run program or test monitor of Shrader in view of Duggan such

that the query status is based upon a comparison with a query rules file provide to the HTTP

server from the test monitor, as Mitomo teaches, so as to provide custom patterns or rules for

determining whether the query is correct.

With respect to claim 2 (currently amended), Shrader in view of Duggan in view of

Mitomo further discloses the limitation wherein the application launcher launches the test

application based on a response to the query from the HTTP server (see, for example, Shrader

column 5, lines 15-21, which shows that the browser or application launcher launches the test

applet or test application based on a response from the HTTP server) and wherein the HTTP

server compares the query to data within query rules file (see, for example, Mitomo, paragraph

0036, lines 1-5 and paragraph 0040, lines 1-11).

With respect to claim 3 (original), Shrader in view of Duggan in view of Mitomo further

discloses the limitation wherein the application launcher exits after launching the test application

(see, for example, Shrader, steps 402 and 410 in FIG. 4, and column 8, lines 27-29 and 42-45,

which shows that the browser or application launcher exits after launching the test applet or test

application).

With respect to claim 4 (original), Shrader in view of Duggan in view of Mitomo further

discloses the limitation wherein the test monitor receives an exit code from the application

launcher, the exit code indicating a launch status of the test application launch (see, for example, Shrader, step 408 in FIG. 4 and column 8, lines 36-39, which shows receiving a marker file indicating a completed launch status, and see, for example, Shrader, column 5, lines 55-57, which shows that the marker file is an exit code).

With respect to claim 5 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the test monitor combines the query status, the test status, and the launch status into a report (see, for example, Shrader, column 8, lines 30-39, which shows combining the test status and query status into an output file or report, and see, for example, Shrader, column 7, lines 43-46, which shows writing to the output file or report based on the launch status).

With respect to claim 6 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the query status indicates the status of the query received from the application launcher (see, for example, Shrader, column 6, lines 42-47, which shows that the query status indicates the status from the browser or application launcher).

With respect to claim 7 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the test monitor starts the status server and the application launcher (see, for example, Shrader, column 4, lines 53-58, which shows that the test/run program or test monitor starts the browser or application launcher, and column 5, lines 43-52, which shows that this starts the DynamicAppletTest class or status server).

With respect to claim 8 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the test monitor starts the HTTP server (see, for example, Shrader, column 4, lines 53-58, which shows that the test/run program or test monitor starts the HTTP server by way of the browser or application launcher to query the HTTP server).

With respect to claim 9 (currently amended), Shrader discloses a method for testing an application launcher (see, for example, the abstract), comprising the operations of:

(a) launching a Hypertext Transfer Protocol (HTTP) server, a status server and an application launcher, wherein application launcher queries the HTTP server for a test application (see, for example, column 4, lines 53-58, which shows launching a browser to launch an HTTP server with a query, and column 5, lines 15-21, which shows that the browser is an application launcher for querying the server for a test applet or test application, and see, for example, column 5, lines 43-52, which shows launching a DynamicAppletTest class that is a status server);

(b) launching the test application using the application launcher (see, for example, column 5, lines 15-21, which shows launching the test applet or test application with the browser or application launcher);

(c) returning a test status from the test application to the status server (see, for example, column 5, lines 43-52, which shows returning status information or a test status from the test applet or test application to the DynamicAppletTest class or status server);

(d) returning the test status, a query status, and a launch status to a test monitor (see, for example, test/run program 202 in FIG. 2 and column 5, lines 43-57, which shows that the test/run program is a test monitor to which the test status is returned, and see, for example, column 6, lines 42-47, which shows returning a query status to the test/run program, such as error and

status messages from the browser for the current URL, and step 408 in FIG. 4 and column 8, lines 36-39, which shows returning a marker file indicating a completed launch status).

Shrader does not expressly disclose:

(e) determining correctness of the application launcher queries to the HTTP server by comparing the application launcher queries to data within a query rules filed provided by the test monitor.

However, in an analogous art, Duggan discloses determining whether a request sent to an HTTP server is valid, which is to say determining correctness of a query sent to an HTTP server, so as to report an error when the request is invalid or incorrect (see, for example, paragraph 0023, lines 6-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Shrader to determine correctness of the browser or application launcher queries to the HTTP server, as Duggan teaches, so that the error and status messages of Shrader (see, for example, column 6, lines 42-47) could report such information.

Duggan is silent as to how the correctness of the query is determined. In other words, Shrader in view of Duggan does not expressly disclose comparing the application launcher queries to data within a query rules filed provided by the test monitor.

However, in an analogous art, Mitomo discloses comparing a request sent to an HTTP server with a request database to determine the correctness of the request (see, for example, paragraph 0036, lines 1-5 and paragraph 0040, lines 1-11). The request database is a file that provides custom patterns or rules on which to base the comparison (see, for example, paragraph 0037, line 1 to paragraph 0039, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Shrader in view of Duggan such that the correctness of the application launcher queries to the HTTP server is determined by comparing the application launcher queries to data within a query rules filed provided by the test monitor, as Mitomo teaches, so as to provide custom patterns or rules for determining whether the query is correct.

With respect to claim 10 (original), the limitations recited in the claim are analogous to the limitations recited in claim 5 (see the rejection of claim 5 above).

With respect to claim 11 (original), the limitations recited in the claim are analogous to the limitations recited in claim 6 (see the rejection of claim 6 above).

With respect to claim 12 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the test status indicates a status of tests performed by the test application (see, for example, Shrader, column 5, lines 43-52, which shows that the status information or test status indicates the status from the test applet or test application as it operates).

With respect to claim 13 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the launch status indicates a status of the application launch operation (see, for example, Shrader, step 408 in FIG. 4 and column 8, lines 36-39, which shows that the launch status indicates the status of the application launch when complete).

With respect to claim 14 (original), Shrader in view of Duggan in view of Mitomo further discloses the limitation wherein the application launcher uses a uniform resource locator (URL)

to launch the test application (see, for example, Shrader, column 5, lines 15-21, which shows that

the browser or application launcher uses a URL to launch the test applet or test application).

With respect to claim 15 (original), the limitations recited in the claim are analogous to

the limitations recited in claim 3 (see the rejection of claim 3 above).

With respect to claim 16 (original), the limitations recited in the claim are analogous to

the limitations recited in claim 4 (see the rejection of claim 4 above).

With respect to claim 17 (currently amended), Shrader discloses an application launcher

testing system (see, for example, the abstract), comprising:

(a) a Hypertext Transfer Protocol (HTTP) server in communication with an application

launcher, wherein the HTTP server receives a query for a test application from the application

launcher (see, for example, column 4, lines 53-58, which shows an HTTP server and a browser,

wherein the HTTP server receives a query from the browser, and see, for example, column 5,

lines 15-21, which shows that the browser is an application launcher for querying the server for a

test applet or test application), and wherein the application launcher launches the test application

based on a response to the query from the HTTP server (see, for example, column 5, lines 15-21,

which shows that the browser or application launcher launches the test applet or test application

based on a response from the HTTP server);

(b) a status server in communication with the test application, the status server receiving

a test status from the test application (see, for example, column 5, lines 43-52, which shows a

DynamicAppletTest class that is a status server for receiving status information or a test status

from the test applet or test application); and

(c) a test monitor in communication with the HTTP server and the status server, wherein

the test monitor receives a query status from the HTTP server, the test status from the status

server (see, for example, test/run program 202 in FIG. 2A and column 5, lines 43-57, which

shows that the test/run program is a test monitor for receiving the test status from the

DynamicAppletTest class or status server, and see, for example, column 6, lines 42-47, which

shows that the test/run program receives a query status from the HTTP server, such as error and

status messages from the browser for the current URL), and an exit code from the application

launcher, the exit code indicating a launch status of the test application launch (see, for example,

step 408 in FIG. 4 and column 8, lines 36-39, which shows receiving a marker file indicating a

completed launch status, and see, for example, column 5, lines 55-57, which shows that the

marker file is an exit code), and wherein the test monitor combines the query status, the test

status, and the launch status into a report (see, for example, column 8, lines 30-39, which shows

combining the test status and query status into an output file or report, and see, for example,

column 7, lines 43-46, which shows writing to the output file or report based on the launch

status).

Shrader does not expressly disclose that the query status is based upon a query rules file

provided to the HTTP server from the test monitor, and does not expressly disclose that the test

monitor determines correctness of the query for the test application from the application launcher

to the HTTP server.

However, in an analogous art, Duggan discloses determining whether a request sent to an

HTTP server is valid, which is to say determining correctness of a query sent to an HTTP server,

so as to report an error when the request is invalid or incorrect (see, for example, paragraph

0023, lines 6-13).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to supplement the test/run program or test monitor of Shrader to determine correctness

of the query for the test applet or test application from the browser or application launcher to the

HTTP server, as Duggan teaches, so that the error and status messages of Shrader (see, for

example, column 6, lines 42-47) could report such information.

Duggan is silent as to how the correctness of the query is determined. In other words,

Shrader in view of Duggan does not expressly disclose a query rules file provided to the HTTP

server from the test monitor.

However, in an analogous art, Mitomo discloses comparing a request sent to an HTTP

server with a request database to determine the correctness of the request (see, for example,

paragraph 0036, lines 1-5 and paragraph 0040, lines 1-11). The request database is a file that

provides custom patterns or rules on which to base the comparison (see, for example, paragraph

0037, line 1 to paragraph 0039, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to supplement the test/run program or test monitor of Shrader in view of Duggan such

that the query status is based upon a query rules file provide to the HTTP server from the test

monitor, as Mitomo teaches, so as to provide custom patterns or rules for determining whether

the query is correct.

With respect to claim 18 (currently amended), Shrader in view of Duggan in view of

Mitomo further discloses the limitation wherein the query status indicates the status of the query

received from the application launcher (see, for example, Shrader, column 6, lines 42-47, which

shows that the query status indicates the status from the browser or application launcher) and

wherein the HTTP server determines the query status by comparing the query to data within the

query rules file (see, for example, Mitomo, paragraph 0036, lines 1-5 and paragraph 0040, lines

1-11).

With respect to claim 19 (original), the limitations recited in the claim are analogous to

the limitations recited in claim 7 (see the rejection of claim 7 above).

With respect to claim 20 (original), the limitations recited in the claim are analogous to

the limitations recited in claim 8 (see the rejection of claim 8 above).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to Applicant's

disclosure. U.S. Patent No. 6,915,344 to Rowe et al. discloses server stress-testing response

verification.

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707.

The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael J. Yigdall
/My/   Examiner
                        Art Unit 2192

mjy

TUAN DAM
SUPERVISORY PATENT EXAMINER